IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1501 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ARUNABEN ASHOKBHAI RAJANI - Petitioner(s)
Versus
ANANTRAY VITHALDAS RAJANI & 2 - Respondent(s)

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Appearance :
MR NITIN M AMIN for Petitioner(s) : 1,
MR NIRAV C THAKKAR for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 23/03/2007

ORAL JUDGMENT

1. Heard the learned advocates for the parties. In this petition, the petitioner has challenged an order dated 2nd December, 2005 passed by Motor

Accident Claims Tribunal(Aux.)and Fast Track Court No.5, Jamnagar below exh.23 in MACP No.57/98.

2. The petitioner is widow of deceased Ashokbhai Rajani who died in a motor vehicle accident. Widow and other dependents and relatives of the deceased therefore, filed above mentioned claim petition seeking compensation.

3. During the pendency of this claim petition, the petitioner remarried. The other claimants therefore, moved this application exh.23 before the Tribunal and prayed that now the widow is remarried, she should be deleted from the suit. Despite opposition from the petitioner herein, learned Judge deleted the petitioner from the said suit.

4. I do not find that the petitioner should have been deleted as one of the claimants. Though admittedly, she has remarried after the death of her husband, that by itself does not necessarily, completely and totally dis-entitle her from receiving any compensation at all.

5. Whether she shall receive compensation or not and if yes to what extent, the issues can be gone into by the Claims Tribunal only while finally disposing of the claim petition. At this stage, it is neither permissible nor proper to

eject the petitioner from the position of one of the claimants.

6. On this ground, the petition is allowed, impugned order is quashed and disposed of accordingly. Rule is made absolute. No costs. Interim relief vacated.

(Akil Kureshi,J.)

(raghu)